

Appl. No. 10/777,465
Amdt. dated January 18, 2006
Reply to Office Action of October 18, 2005

PATENT

Amendments to the Drawings:

No amendments to the drawings have been made. However, the drawings previously submitted on March 29, 2005 have been resubmitted per Examiner's request with the proper --Replacement Sheet-- designation on each sheet.

REMARKS/ARGUMENTS

Claims 2-3, 9-10 and 23 have been canceled without prejudice for re-presentation and pursuit in a continuing application. Claims 1, 4-8 and 11-22 are pending. The current claims have been drafted to be better tailored to the desired subject matter and for reasons related to currently contemplated commercial embodiments of the invention. No acquiescence is made to any position regarding patentability as set forth in the Office Action mailed October 18, 2005.

No new matter has been introduced with regards to the claim amendments, and Applicants respectfully request allowance of the now pending claims.

Drawing objections

As per Examiner's instructions the drawings filed on 3-29-2005 have been currently resubmitted and each labeled as --Replacement Sheet--.

Claim 23 has been canceled, thereby obviating the Examiner's objections to the drawings, since the "means for" language of the claim is deleted.

No new matter has been submitted with regards to the drawings. The drawings have been merely resubmitted and relabeled with the necessary --Replacement Sheet-- language.

Specification objections

As per Examiner's instructions, paragraph [0001] has been amended to include U.S. Patent Application Number 10/774,310.

Claim objections

Claims 11-21 and 23 were objected to because of the following informalities:

(1) In claims 11, 18 and 19, line 2, "the blade" should read --a blade--.

These corrections have been made as requested.

(2) In claim 11, line 2, "the folded position" should read --a folded position--.

This correction has been made as requested.

(3) In claim 11, line 3, "a blade" should read --the blade--.

This correction has been made as requested.

(4) In claim 17, line 1, "the locking portion" should read --the locking mechanism--.

This correction has been made as requested.

(5) In claims 18 and 19, line 3, "the folded position" should read --a folded position--.

These corrections have been made as requested.

(6) In claims 18 and 19, line 5, "a blade" should read --the blade--.

This correction has been made as requested.

(7) In claims 18 and 19, line 7, "the closed position" should read --a closed position--.

These corrections have been made as requested.

(8) In claim 18, line 17, "protrusion to" should read --protrusion--.

This correction has been made as requested.

(9) In claim 19, line 8, "the closed position" should read --a closed position--.

This correction has been made as requested.

(10) In claim 21, line 2, "the locking position" should read --a locking position--.

A correction has been made as requested, however the Examiner suggested the correction should read "a locking position", whereas Applicants believe that for proper antecedent basis and intent the correction should read "the locked position". This becomes evident when looking at the claim from which claim 21 depends (claim 19) which contains the language "when the locking mechanism is in a locked position."

(11) and (12) pertain to claim 23. Claim 23 has been canceled; therefore any objections regarding claim 23 are believed to be moot.

Since Applicants have amended the claims as requested and have canceled claim 23, the claim objections are believed to be moot and thus should be withdrawn. No new matter has been submitted.

Issue under 35 U.S.C. §112, First Paragraph

Claims 9, 10 and 23 were rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. More specifically the Examiner alleges that "the claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor at the time the application was filed, had possession of the claimed invention."

Applicants respectfully traverse. However, without acquiescence to the allegation of failing to comply with the written description requirement for the claims as originally presented, and in the interest of expediency and business considerations, claims 9, 10 and 23 have been canceled, rendering the rejection moot. Therefore, the rejection should be withdrawn.

Issues under 35 U.S.C. §112, Second Paragraph

Claims 2-7, 14 and 18-21 were rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically the examiner alleges the following:

- (1) In claim 2, line 2, "the housing" has no antecedent basis.
- (2) In claim 14, line 2, "the handle" lacks antecedent basis.
- (3) In claims 18 and 19, lines 5 and 6, "the housing" has no clear antecedent basis.

Applicants respectfully traverse. However, without acquiescence to the allegation of indefiniteness for the claims as originally presented and in the interest of expediency, claims 2, 14, 18 and 19 have been amended.

Dependent claim 2 has been canceled in light of it being rewritten as an element of independent claim 1. However, the language of the previous claim 2 was amended so that "the housing" language now reads "the handle" in currently amended claim 1. Support for this amendment is found within the claim.

Furthermore original claims 3-7 were rejected based on their dependency from claim 2. As described above, the alleged antecedent basis issues associated with claim 2 have

been corrected. Because antecedent basis has been corrected for claim 2, the rejection against the dependent claims (3-7) is now moot.

Claim 14 has been amended, "the handle" language now reads "the housing."

Claims 18 and 19 have been amended, "the housing" now reads "the handle."

Since claims 20-21 depend from claim 19 and it has been amended, the rejection of these dependent claims is rendered moot.

Given the amendments to these claims, the rejections are believed to be moot and thus should be withdrawn.

Issue under 35 U.S.C. §102

Claims 1-23 were rejected under 35 USC § 102(b) as allegedly anticipated by Cunningham (U.S. Patent No. 4,811,486).

Applicants have carefully reviewed the statement of the instant rejection and respectfully traverse, because no case of anticipation is present. Simply put, Cunningham does not teach all the requirements of the claims.

Specifically, Applicants note that the instant rejection relies upon the Examiner's belief that:

Cunningham discloses a folding knife comprising a handle (3, 4), a blade (2), a locking mechanism (13), a male portion (14), a recess (5), a tab (i.e. the portion that is visible through the notches 3a, 4a when the knife is assembled as shown in Figs. 1 and 2), a blade female portion (2a), a protrusion (19) extending from the handle, and a protrusion of a blade (i.e. the portion of the blade that is protruded out of the handle as shown in Fig. 4) configured to displace the locking mechanism (13) as claimed.

The fundamental feature of the present invention is that the knife includes an independent locking mechanism for **locking the blade into a closed position**. Applicants do not believe Cunningham teaches an independent locking mechanism which locks the blade into a closed position and maintains the blade in the closed position until the lock is manually disengaged by the user before attempting to open the knife. Therefore, Cunningham does not teach all the elements of any pending claim and should be withdrawn.

The locking mechanism (13) element the Examiner refers to from Cunningham, shown in figures 1-5, is a dual-locking position mechanism. The first position, used when locking the blade in the open position, locks the blade in place until the locking mechanism is disengaged with a tab depression. Closing pressure applied on the blade will not close the knife until the tab portion is pressed and disengages the locking mechanism. In contrast, the second position, used when the knife is in the closed position only, biases the blade in a closed position with tension forces to help keep the knife closed. Opening pressure applied on the blade will open the knife as long as the force applied towards opening is greater than the spring biasing force towards closing. Therefore, there is no true locking mechanism on the closed blade in figures 1-5. One merely applies sufficient force to the blade to overcome the tension biasing forces and the blade opens. Furthermore, there is no independent disengagement of the so-called locking mechanism when the blade is in the closed position. The tab used to unlock the blade when fully open serves no function when the blade is in the closed position. Therefore, when the knife is in the closed position, there is no way to "unlock" the blade without physically beginning the process of opening the blade.

The inadequate teachings of the locking mechanism are further evident when reviewing how the locking link 13 element is described in the Cunningham specification. Column 3, lines 24-28 describe the locking mechanism as it relates to the knife in the **open** position as such: "In order to return knife blade 2 to its retracted position, initially locking pin 13 is depressed as shown in Fig. 2 which causes locking pin 13 to pivot about screw 38 thereby disengaging locking surface 14 from locking surface 23." Fig. 2 shows a finger depressing the tab-like portion on the far end of the knife, which disengages the respective locking surfaces 14 and 23.

The blade locking mechanism utilized when the knife is in the **closed** position in the Cunningham patent is described in the specification at Column 3, lines 4-14, as such:

According to a feature of this invention, knife blade 2 is held securely in the closed position, as shown in FIG. 4, by means of the cooperation between locking surface 14 and safety notch 2a. By this means, knife blade 2 is actually locked in position and is thereby prevented from accidentally opening. When knife blade 2 is opened by means of the rearward manual pressure on sliding knob

33, the spring pressure of locking pin 13 on safety notch 2a is overcome and knife blade 2 is free to swing into the extended position.

Therefore, Cunningham does not teach a safety locking mechanism which is independent of the blade opening mechanism. The opening mechanism of the knife is the same mechanism which is used to "unlock" the blade from the closed position. One simply slides the opening knob for the knife with enough pressure to overcome the pressure of the locking pin. It is debatable whether simply pushing on the opening mechanism hard enough to overcome a spring resistance is really a true locking mechanism. In contrast, the instant application claims an independent physical obstruction of the blade tang which, regardless of the pressure applied towards opening the knife, will not allow the blade to open until the physical obstruction is removed. After the locking mechanism is moved into an unlocked position, the user can then open the knife using a separate blade-opening mechanism.

The dual purpose mechanism of the locking pin taught by Cunningham is further reiterated in claim 4 which reads:

4. A knife according to claim 1 wherein a pivotally mounted locking pin is interconnected generally at one end thereof to said base element by means of a leaf spring and wherein a pair of locking notches are formed on opposite edges of said blade and are alternately engageable by the other end of said locking pin to hold said blade open or closed.

As previously stated none of the claims of the present invention utilize a single dual-purpose locking mechanism for locking the blade in both the open and closed positions.

Furthermore, the tab portion as described in Cunningham above is used solely for unlocking the blade from the open to the closed position, and is not used in conjunction with the locking mechanism related to holding the blade in "a securely closed position." In contrast the "tab" associated with claim 13 of the present invention is used solely for locking and unlocking the blade while in a closed position, and serves no other function in relation to the opening of the knife or locking the knife in the open position.

For business considerations, all of the pending claims of the present application have been amended to further incorporate the limitation such that the locking mechanism is located near a base portion of the blade. In addition to the arguments presented above, and due

to the fact that Cunningham only teaches a locking pin mechanism which extends to both ends of the handle so that the locking pin can serve its dual function of locking the blade into the fully open or the fully closed position, Cunningham does not teach all elements of the presently amended claims. Therefore, the rejection should be withdrawn.

As such, Cunningham simply does not disclose the instant invention. Accordingly, no case of anticipation has been presented, and this rejection may be properly withdrawn.

Claims 1-4, 9-12 and 14-17 were rejected under 35 U.S.C. § 102(e) as allegedly unpatentable over Frazer (U.S. Patent Publication No. 2003/0070299, now U.S. Patent No. 6,941,661). Applicants have carefully reviewed the statement of the rejection as well as the cited reference and respectfully submit that no case of anticipation has been presented. Applicants traverse for the reasons as follows.

Examiner alleges that: "Frazer discloses a folding knife comprising a handle (14), a blade (12), a locking mechanism (52) having a male portion for engaging with a female portion (66), a pivot pin (54) and a protrusion (32) as claimed."

As mentioned above in regards to Cunningham, the fundamental feature of the present invention is that the knife includes an independent locking mechanism for **locking the blade into a closed position**. Applicants do not believe any locking mechanism taught in the 39 figures and specification of Frazer teaches an independent locking mechanism which locks the blade into solely a closed position and maintains the blade in the closed position until the lock is manually disengaged by the user, before attempting to open the knife. Therefore, Frazer does not teach all the elements of claims 1-4, 9-12 and 14-17, and should be withdrawn.

Similar to Cunningham, the locking mechanism (52) element the Examiner refers to from Frazer, shown in figures 1-5, is a dual locking-position mechanism. The first position, used when locking the blade in the open position, locks the blade in place until the locking mechanism is disengaged by pressing rearward on either of the operating buttons 56. Closing pressure applied on the blade will not close the knife until an operating button 56 is pressed, which disengages the locking mechanism. In contrast, the second position, used when the knife

is in the closed position only biases the blade in a closed position with tension forces to help keep the knife closed. Opening pressure applied on the blade will open the knife as long as the force applied towards opening is greater than the spring biasing force towards closing. Therefore there is no true locking mechanism on the closed blade in figures 1-5, one merely applies sufficient force to the blade to overcome the tension biasing forces and the blade opens. Furthermore, there is no independent disengagement of the so-called locking mechanism when the blade is in the closed position. The operating buttons 56 used to unlock the blade when fully open serve no function when the blade is in the closed position. Therefore, when the knife is in the closed position there is no way to "unlock" the blade without physically beginning the process of opening the blade.

This is further evident when reviewing how the locking link 52 element is described in the Frazer specification. Paragraph 30 of Frazer describes the locking mechanism as it relates to the knife in the **open** position as such:

With reference to FIG. 3, in the open position of the blade 12, the arcuate bottom end position of the locking link 52 fits in the notch 48... In such position, swinging of the knife blade 12 relative to the handle 14 is prevented by engagement of the notched tang against the bottom end portion of the locking link 52... To release the blade, the user need only press rearward on either of the operating buttons 56, thereby swinging the link to a position in which its bottom end portion is no longer engaged in the notch 48. The blade then can be swung to its closed position...

Portions of paragraph 31 of Frazer describes the locking mechanism as it relates to the knife in the **closed** position as such:

...the notch or contoured portion 50 at the opposite side of the tang from notch 48 receives the swinging end portion of the locking link 52 when the knife is in the closed position shown in FIG. 5. However, the recess 50 is shaped such that the swinging end of link 52 engages against an abrupt, more sharply curved portion 66 of the periphery of the blade tang 40. **Thus the blade is positively biased toward the closed position by the link 52.** [Emphasis added.]

Paragraph 34 goes on to describe the Frazer locking link functions as:

Stated in another way, the action of the link 52 and associated springs 60 provides a "brake-force" when the knife is in the closed position, with such force

decreasing abruptly or gradually as the knife blade is moved toward the open position, until such time as the biasing force of the spiral spring overcomes the force of the link 52 and associated springs 60.

Therefore, in regards to locking mechanism (52), Frazer does not teach a safety locking mechanism which is independent from the blade opening. One simply applies sufficient pressure on the blade towards opening the knife to "overcome the force of the link 52 and associated springs 60" and the knife will open. It is debatable whether the "brake-force" pressure towards keeping a blade in the closed position is really a true locking mechanism. In contrast, the instant application claims an independent physical obstruction of the blade tang which, regardless of the pressure applied towards opening the knife, will not allow the blade to open until the physical obstruction is removed. The opening of the knife in the current application requires a two step process. First, the locking mechanism is disengaged from blocking the tang portion of the blade by retracting the pivotally-connected locking mechanism. Second, force is applied to the blade towards an open position. Therefore, only after the locking mechanism is moved into an unlocked position, may the user open the knife using a separate blade opening mechanism.

Furthermore, every locking mechanism taught in the 39 figures and specification of Frazer serves the dual purpose of locking the blade in **both** the open and closed positions. As previously stated, none of the claims of the present invention utilize a dual-purpose locking mechanism for locking the blade in both in the open and closed positions.

As a further matter, the Examiner alleges that Frazer includes a protrusion 32; however, the description found for item 32 in the specification is found in paragraph 26 of the Frazer publication and states: "The blade can have a transversely projecting thumb pin or bob 32 near its pivoted end." Although the present application also may have a thumb pin or bob, there is no relation to this thumb pin or bob to the locking mechanism of the present device. There are two possible protrusions from the present invention to which the Examiner may be referring. First, on page 6, lines 20-22, the specification states: "The locking mechanism 24 includes a tab 38 which is the only section of the locking mechanism that protrudes from the knife assembly when the locking mechanism is in the locked position." It is unclear how the Examiner could

equate this tab 38 which protrudes from the knife as the same element as the thumb stud found in Frazer. Second, on page 7, lines 5-7, the specification states: "The locking recess 42 and locking protrusion 44 provide resistance to the locking mechanism so that a small amount of force is required by the user to retract the locking mechanism..." Again it is unclear how the Examiner can equate the locking protrusion within the handle of the knife as the same element as the so-called protrusion 32 in Frazer. Furthermore, the Examiner does not reject any of the present claims (5-8, 13 and 18-23) which include either of the two above described protrusion elements in relation to Frazer. Non-rejected claims 5-8 and 18-23 all require the locking protrusion 44 described above, and non-rejected claim 13 requires tab 38 described above.

For the reasons stated above, Frazer does not disclose all the elements of the claimed invention as required to support an allegation of obviousness. Accordingly, Applicants respectfully submit that no case of anticipation has been presented, and this rejection may be properly withdrawn.

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CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 858-350-6100.

Respectfully submitted,



Scott E. McPherson
Reg. No. 53,307

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 858-350-6100
Fax: 415-576-0300
Attachments
SEM:ps
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